

1 Ronald L. Richman, SBN 139189
 Susan J. Olson, SBN 152467
 2 BULLIVANT HOUSER BAILEY PC
 601 California Street, Suite 1800
 3 San Francisco, California 94108
 Telephone: 415.352.2700
 4 Facsimile: 415.352.2701
 E-Mail: ron.richman@bullivant.com
 5 E-Mail: susan.olson@bullivant.com

6 Attorneys for Plaintiffs

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10 BOARD OF TRUSTEES OF THE CEMENT
 MASONS HEALTH AND WELFARE TRUST
 11 FUND FOR NORTHERN CALIFORNIA;
 BOARD OF TRUSTEES OF THE CEMENT
 12 MASONS VACATION-HOLIDAY TRUST
 FUND FOR NORTHERN CALIFORNIA;
 13 BOARD OF TRUSTEES OF THE CEMENT
 MASONS PENSION TRUST FUND FOR
 14 NORTHERN CALIFORNIA; AND BOARD
 OF TRUSTEES OF THE CEMENT MASONS
 15 TRAINING TRUST FUND FOR NORTHERN
 CALIFORNIA,

Case No.: C O9-01732 JSW

**STIPULATION TO STAY ACTION FOR
 90 DAYS; ORDER THEREON**

16 Plaintiffs,

17 v.

18 ALL WEST CONSTRUCTION, INC., a
 19 California corporation,

20 Defendant.

21 **STIPULATION**

22 IT IS HEREBY STIPULATED by and between Plaintiffs Boards of Trustees of the
 23 Cement Masons Health and Welfare Trust Fund for Northern California, Board of Trustees of
 24 the Cement Masons Vacation-Holiday Trust Fund for Northern California, Board of Trustees of
 25 the Cement Masons Pension Trust Fund for Northern California, and Board of Trustees of the
 26 Cement Masons Training Trust Fund for Northern California (“Cement Masons Trust Funds”),
 27
 28

1 on the one hand, and Defendant All West Construction, Inc. (“All West Construction”), on the
2 other hand, through their respective counsel, as to the following.

3 1. On April 21, 2009 Plaintiffs Cement Masons Trust Funds filed their Complaint
4 for Damages for Breach of Collective Bargaining Agreement and For a Mandatory Injunction
5 (“Complaint”). Plaintiffs seek to conduct an audit of Defendant All West Construction’s books
6 and records for the period June 20, 2005 through the present in connection with a certain Job
7 otherwise known as the Waste Water Reclamation Facility Admin Project to determine if All
8 West Construction properly reported and paid its trust fund contributions on behalf of its
9 covered workers. Defendant All West Construction was served with the Complaint on May 1,
10 2009.

11 2. Defendant All West Construction has agreed to allow an audit, as further
12 provided for herein, without waiving any of its legal rights and remedies. Defendant All West
13 Construction agrees to allow auditors selected by the Plaintiffs to appear at Defendant’s
14 business location and audit the relevant books and records of Defendant. The inspection and
15 audit shall be conducted and completed by July 31, 2009. Plaintiffs’ auditor shall contact
16 Defendant All West Construction to arrange for a mutually convenient time for the audit. The
17 parties agree that if there is any issue or problem regarding the audit process, the parties will
18 meet and confer and if they are still unable to resolve any dispute regarding the audit process,
19 the parties will jointly notify this Court and request a conference with this Court.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///


28 ///

1 3. Once the audit is completed, Plaintiffs Cement Masons Trust Funds will share
2 the preliminary audit results with Defendant and give Defendant an opportunity to review and
3 discuss the audit results with Plaintiffs Trust Funds. The parties further agree to a stay of the
4 above proceedings for 90 days, through September 18, 2009, so that the audit can be completed,
5 the audit results provided to Defendant, and the parties can have an opportunity to meet and
6 confer in an attempt to resolve any dispute regarding the audit results.

7 4. If the audit and/or other negotiations between the parties hereto resolve the
8 claims of Plaintiffs to their satisfaction, Plaintiffs will promptly seek a dismissal of this action in
9 its entirety.

10 DATED: July 13, 2009

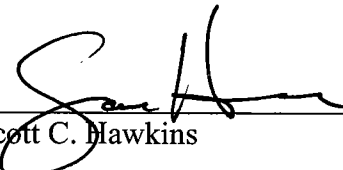
BULLIVANT HOUSER BAILEY PC

13 By 
14 Ronald L. Richman
Susan J. Olson

15 Attorneys for Plaintiffs
16 Cement Masons Trust Funds

17 DATED: July 13, 2009

HAWKINS - BOHMAN

19 By 
20 Scott C. Hawkins

21 Attorneys for Defendant
22 All West Construction, Inc.

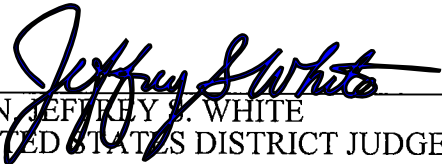
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

The parties having submitted this Stipulation To Stay Case for 90 days and good cause appearing:

IT IS HEREBY ORDERED that this case be stayed for 90 days and that dates set forth in this Court's Order Setting Initial Case Management Conference and ADR Guidelines be vacated, as well. The audit shall proceed pursuant to the Stipulation, above. The Case Management Conference will be rescheduled for October 2, 2009 in Courtroom 11, 19th Floor, at 1:30 p.m. The parties are required to submit a Joint Case Management Conference Statement seven (7) days prior to the new Case Management Conference advising this Court as to the status of the audit and the parties' informal attempts to resolve any dispute regarding the results of audit.

DATED: ~~June~~, 2009
July 16, 2009

By 
HON. JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

11703120.1